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Before The
FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of the)
Cable Television Consumer)
Protection and Competition)
Act of 1992)
)
Broadcast Signal Carriage Issues)

MM Docket No. 92-260

COMMENTS OF BELL ATLANTIC¹

The Commission's notice of proposed rulemaking in this proceeding correctly recognizes that the Cable Act of 1992 should be implemented in a way to create "regulatory parity among entities ... at the same distribution level with cable systems."² This will permit the marketplace to function free of one-sided regulatory burdens that artificially favor or handicap particular competitors.

Regulatory parity means that any retransmission consent rules adopted by the Commission should apply to cable systems and other entities that directly provide video programming to consumers.³

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are The Bell Telephone Company of Pennsylvania, the four Chesapeake and Potomac telephone companies, The Diamond State Telephone Company and New Jersey Bell Telephone Company.

² Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues, NPRM at ¶ 42 (released Nov. 19, 1992).

³ Id.

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The 1992 Act's retransmission consent provision applies both to traditional "cable system[s]" and to "other multichannel video programming distributor[s]." ⁴ Under the Act, a video programming distributor is an entity that provides programming directly to subscribers -- i.e., a video programmer. ⁵ Unlike traditional cable systems that provide both content and conduit, however, some other multichannel video programming distributors will provide just the content and rely on common carrier services such as video dial tone to provide the conduit.

As the Commission correctly recognizes, in the case of video dial tone and other common carrier services the retransmission consent obligation properly falls on the entity providing video programming directly to subscribers, and not on

⁴ Cable Television Consumer Protection and Competition Act of 1992, Section 6.

⁵ See 1992 Act, Section 2 ("the term 'multichannel video programming distributor' means a person ... who makes available for purchase, by subscribers or customers, multiple channels of video programming").

the common carrier transport provider.⁶ Any implementing regulations adopted by the Commission should expressly provide so. This will conform the Commission's rules to the statute,⁷ and will create parity by imposing these obligations on cable systems and other multichannel video programming distributors at the "same distribution level."⁸

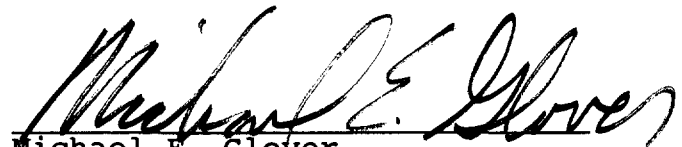
⁶ NPRM at ¶ 42. As the Commission recognizes, see NPRM at ¶ 16, the Act's "must carry" provisions apply only to "cable operators" on their "cable systems," and not to "other multichannel video programming distributor(s)." 1992 Act, Sections 4-5. As a result, the "must carry" provisions do not apply to video dial tone providers or their programmer-customers since they are not "cable operators" and do not operate "cable systems." Telephone Company - Cable TV Cross-Ownership Rules, Sections 63.54-63.58, 7 FCC Rcd 300, 324-28 (1991), on recon. 7 FCC Rcd 5069 (1992). Moreover, video dial tone providers are already subject to more stringent "must carry" obligations than cable because they must provide video transport on a non-discriminatory common carrier basis. Id., 7 FCC Rcd 5781, 5783 (1992).

⁷ See supra n. 5.

⁸ NPRM at ¶ 42.

Respectfully submitted,

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John Thorne
Of Counsel

A handwritten signature in black ink, reading "Michael E. Glover". The signature is written in a cursive style with a horizontal line drawn across the middle of the name.

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